

STATE OF MICHIGAN
COURT OF APPEALS

MONICA WINBUSH,

Plaintiff-Appellant,

v

MICHIGAN BASIC PROPERTY INSURANCE
ASSOCIATION,

Defendant-Appellee.

UNPUBLISHED

November 14, 2006

No. 270083

Wayne Circuit Court

LC No. 05-523759-CK

Before: Fort Hood, P.J., and Murray and Donofrio, JJ.

PER CURIAM.

In this insurance dispute, plaintiff appeals as of right from the trial court's order granting summary disposition in favor of defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff is the insured under a fire insurance policy issued by defendant. Plaintiff commenced this action on August 11, 2005, alleging that defendant acted in bad faith and breached the fire insurance policy by denying her claim for a fire loss that occurred on or about June 9, 2003. Defendant moved for summary disposition under MCR 2.116(C)(8) and (10) on the grounds that plaintiff did not plead a cognizable bad-faith claim and that the one-year period of limitations for the breach of contract claim, MCL 500.2833(1)(q), expired on August 1, 2005. Plaintiff opposed the motion, challenging only defendant's statute of limitations defense. Plaintiff acknowledged that defendant denied her claim in an August 3, 2005, letter, but argued that the letter was sent only to her attorney, Nicholas Smith, and was ineffective to provide notice to her because Smith was not a proper person to accept service under MCR 2.117. The trial court rejected plaintiff's argument, concluding that the relevant inquiry was notice, not service of pleadings, and that notice to an authorized representative was effective notice to plaintiff.

We review de novo a trial court's decision on a motion for summary disposition. *Bryant v Oakpointe Villa Nursing Centre, Inc.*, 471 Mich 411, 419; 684 NW2d 864 (2004). Although defendant cited MCR 2.116(C)(8) and (10) as the subrules under which it moved for summary disposition, MCR 2.116(C)(7) is the proper subrule to apply to determine if a claim is barred by a statute of limitations. *Bryant, supra*. An appellate court will review a trial court's decision under the correct rule. *Spiek v Dep't of Corrections*, 456 Mich 331, 338; 572 NW2d 201 (1998). Under MCR 2.116(C)(7), a court considers all documentary evidence submitted by the parties, to

the extent that the content or substance would be admissible as evidence, and accepts as true the contents of the complaint unless contradicted by affidavits or other appropriate documents. *Bryant, supra* at 419; MCR 2.116(G)(6). “If the pleadings demonstrate that a party is entitled to judgment as a matter of law, or if affidavits or other documentary evidence show that there is no genuine issue of material fact, the trial court must render judgment without delay.” *Harris v City of Allen Park*, 193 Mich App 103, 106; 483 NW2d 434 (1992).

Plaintiff raises two issues regarding whether the denial letter to attorney Smith was improper service under MCR 2.117(B)(2) and (3). We find no basis for reversal. Plaintiff does not address the necessary issue whether MCR 2.117 applies to an insurer’s formal denial of liability under MCL 500.2833(1)(q). “An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims.” *Peterson Novelties, Inc v Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). And when an appellant fails to brief a necessary issue, appellate relief may be denied. *Sargent v Browning-Ferris Industries*, 167 Mich App 29, 37; 421 NW2d 563 (1988); *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987). In any event, the “Michigan Court Rules govern practice and procedure in all courts established by the constitution and laws of the State of Michigan.” MCR 1.103. The denial of plaintiff’s insurance claim was not part of any court proceeding. Thus, plaintiff’s reliance on MCR 2.117 is misplaced.

Further, we decline to consider the additional issues raised by plaintiff in her reply to defendant’s arguments on appeal. To properly present an issue on appeal, an appellant must raise the issue in the statement of questions presented. *Busch v Holmes*, 256 Mich App 4, 12; 662 NW2d 64 (2003); MCR 7.212(C)(5). “Reply briefs may contain only rebuttal argument, and raising an issue for the first time in a reply brief is not sufficient to present the issue for appeal.” *Blazer Foods, Inc v Restaurant Properties, Inc*, 259 Mich App 241, 252; 673 NW2d 805 (2003).

Affirmed.

/s/ Karen M. Fort Hood
/s/ Christopher M. Murray
/s/ Pat M. Donofrio